

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

KYLE BUTLER RASHLEY, individually
and on behalf of a class of all persons and
entities similarly situated,

Plaintiffs,

vs.

Case No. 2:25-cv-10398-TGB-DRG

BENEFITS NOW, LLC

Defendant.

MOTION FOR CLERK’S ENTRY OF DEFAULT AGAINST DEFENDANT

COMES NOW Plaintiff, pursuant to Fed. R. Civ. P. 55(a), hereby files this Motion for Clerk’s Entry of Default against Benefits Now, LLC (“Defendant”) in the above-styled action. Mr. Rashley respectfully requests that the Clerk of Court enter default as the Defendant has failed to serve or file an answer to Plaintiff’s claims in this action within the time permitted by law or otherwise.

Federal Rule of Civil Procedure 12(a), entitled “Time to Serve a Responsive Pleading,” provides in pertinent part that “[a] defendant must serve an answer within 21 days after being served with the summons and complaint.” See Fed. R. Civ. P. 12(a)(1)(A)(i). Federal Rule of Civil Procedure 55(a), entitled “Entering a Default,” provides that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” See Fed. R. Civ. P. 55(a) (emphasis added).

Here, the Plaintiff filed his Complaint in February of 2025. *See* ECF No. 1. The Defendant was served on February 14, 2025 with its responsive pleading due on March 7, 2025. *See* ECF No. 3. However, the Defendant did not file a responsive pleading despite being aware

of this lawsuit and having an attorney contact the attorney for the Plaintiff. Indeed, following that conversation, counsel for the Plaintiff indicated that they would not file a motion for a default if a responsive pleading was filed by April 4, 2025. *See Exhibit 1*. That did not happen.

Accordingly, the Plaintiff requests that the Clerk enter the Defendant's default pursuant to Fed. R. Civ. P. 55(a).

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Plaintiff respectfully requests that the Clerk of Court enter default against Defendants pursuant to Fed. R. Civ. P. 55(a).

DATED this 5th day of April, 2025.

PLAINTIFF,
By his attorneys,

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